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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION
13

14 **QAYED MURTAZA SHAREEF,**
15
16 Petitioner,
17
18 **v.**
19 **KEN CLARK, Warden,**
Respondent.

8:22cv850-DOC-KS

**ANSWER TO PETITION FOR
WRIT OF HABEAS CORPUS**

Judge: The Honorable Karen L.
Stevenson

Action Filed: 4/21/2022

20 Respondent Tammy Campbell,¹ Warden of California State Prison, Corcoran
21 of the California Department of Corrections and Rehabilitation, respectfully
22 submits this Answer to the Petition for Writ of Habeas Corpus under this Court's
23 Order and in accordance with Rule 5 of the Rules Governing Section 2254 Cases in
24 the United States District Court.

25
26
27
28 ¹ Though the habeas Petition lists Ken Clark as Respondent, Tammy Campbell
is the current Warden of California State Prison, Corcoran, as of June, 2022

1 Respondent denies all allegations contained in Petitioner Qayad Murtaza Shareef's
2 Petition that his custody is unlawful and hereby asserts:

3
4 I.

5 Shareef is lawfully in Respondent's custody, serving an indeterminate term of
6 twenty-five years to life in state prison for multiple convictions of sex offenses
7 involving children and various sentencing enhancements.

8 II.

9 The Petition for Writ of Habeas Corpus is subject to the relitigation bar
10 Congress enacted in 28 U.S.C. § 2254(d). To warrant relief, Shareef bears the
11 burden of showing that the state court's adjudication on the merits of his claims
12 resulted in a decision that was "contrary to, or involved an unreasonable application
13 of, clearly established Federal law, as determined by the" United States Supreme
14 Court, or was "based on an unreasonable determination of facts in light of the
15 evidence presented." § 2254(d).

16 III.

17 The Petition is timely.

18 IV.

19 Shareef raises one claim in his federal petition. He asserts that the trial court
20 violated his Fifth Amendment rights when it admitted incriminating statements,
21 which he asserts were both involuntary and inadmissible absent *Miranda* warnings
22 from law enforcement. The claim is meritless. First, Shareef was not in custody
23 when police interviewed him so *Miranda* warnings were not required. And second,
24 the circumstances established that his confession was voluntary. Shareef has failed
25 to show that the state court's resolution of his claim was contrary to, or based on an
26 unreasonable application, of clearly established United States Supreme Court
27 authority.

28 This Court should deny the Petition with prejudice.

V.

To the extent the state courts made express and implied factual findings, the presumption of correctness mandated by 28 U.S.C. § 2254(e)(1) applies to such findings.

VI.

Shareef is not entitled to an evidentiary hearing to resolve any of his claims. 28 U.S.C. § 2254(e)(2); *Cullen v. Pinholster*, 563 U.S. 170 (2011).

VII.

The relevant facts and procedural history set forth in the accompanying Memorandum of Points and Authorities are incorporated herein by this reference. Except as expressly admitted here or in the Memorandum of Points and Authorities, Respondent denies that Shareef's confinement is improper, unconstitutional, or unlawful.

Wherefore, Respondent respectfully requests that the Petition for Writ of Habeas Corpus be denied with prejudice and that any request for a certificate of appealability be denied.

Dated: August 10, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
DANIEL ROGERS
Supervising Deputy Attorney General
CHRISTOPHER BEESLEY
Supervising Deputy Attorney General

/s/ Michael D. Butera
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CERTIFICATE OF SERVICE

Case Name: Shareef v. Clark

No. 8:22cv850-DOC-KS

I hereby certify that on August 10, 2022, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that some of the participants in the case are not registered CM/ECF users. On August 10, 2022, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Qayed Murtaza Shareef
CDC# BM2497
California State Prison - Corcoran
P.O. Box 8800
Corcoran, CA 93212-8309

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on August 10, 2022, at San Diego, California.

D. Wallace
Declarant

D. Wallace
Signature